

ZONING BOARD OF REVIEW

Barrington, Rhode Island

September 15, 2016

APPLICATIONS #3852, #3856 and #3858,

MINUTES OF THE MEETING:

At the call of the meeting by the Chairman, Thomas Kraig, the Board met with Mark Freel, Peter Dennehy, Paul Blasbalg, Dave Rizzolo, Ladd Meyer and Jude Kostas.

Also present were Assistant Solicitor Amy Goins and Solicitor Andy Teitz, Building Official Bob Speaker and Board Secretary Mary Ann Rosenlof.

At 7:05 P.M., Mr. Kraig called the meeting to order.

New Zoning Board member Jude Kostas was sworn in by the Chair.

MINUTES OF THE PREVIOUS TWO MEETINGS:

MOTION: Mr. Freel made a motion to approve the July 27, 2016 minutes as written. Mr. Meyer seconded the motion and it carried unanimously (5-0).

MOTION: Mr. Rizzolo made a motion to approve the August 18, 2016 minutes as written. Mr. Freel seconded the motion and it carried unanimously (5-0).

Continuation of Application #3852, Dale & Martha Wallick, 28 Clarke Rd., Barrington, RI, applicants and owners, for permission to construct a 2nd floor addition, attached garage and sunporch. Assessor's Plat 27, Lot 7, R-25 District, 5 Hampden St., Barrington, RI, requiring dimensional relief for construction within 100' setback from wetlands/water bodies and a special use permit for proposed construction within 100' of Wetlands Overlay District.

Mr. Dennehy is recused from this application.

Present: Anthony DeSisto, Esq., 450 Veterans Memorial Parkway, East Providence, RI
Martha Wallick, applicant
Justin Vieira, architect
Stephen Murgo, Sr., Professional Land Surveyor, 19 Kinnicutt Ave., Warren, RI

Also present: David Boyce, Conservation Commission

Mr. DeSisto said that the plans included with the application have been amended as requested by the Board. The outline of the lot is the same. The indentation on the lot line at the Palmer River that was in question is a boat ramp. The grey color on the site plan (page 1) is the existing structure. The tan

color shows the additions and the green color represents the patio and sunroom. The measurement to the wetland / water body is to the boat ramp which slopes down. The steps are not considered a part of the coastal feature.

Mr. Vieira explained that they will be doing renovations and additions. A sunroom will be added off the back on the water side, an addition for a garage will be added on the street side and the front wall will be squared off. The existing three walls along the northern side and water side will remain the same. The existing structure will be reused and not raised. The southeast corner of the house, which is closest to the coastal feature, will remain in its present location. The addition will go up but be no closer to the coastal feature.

The Board noted the latest report from the Conservation Commission, dated 9/13/16. The "removable rain barrels" noted there will be temporary during construction and replaced with drywells, which the applicant will accept as a condition.

Mr. Speaker said that while he does not require a permit for a patio with pavers - a green paver patio - they would need a CRMC permit.

MOTION: Mr. Freel made a motion to approve the dimensional variance portion of the application subject to the following conditions set forth by the Conservation Commission:

1. Use of appropriate erosion control measures prior to and during all soil disturbance work, including hay bales or a silt fence along the entire width of the property along the Palmer River
2. All downspouts will drain to drywells. Temporary rain barrels to be used during construction.
3. All construction materials will be stored on the Hampden Street side of the property

Mr. Blasbalg seconded the motion and it was unanimously approved (5-0).

REASON FOR DECISION:

It was the judgment of the Board that the standards in § 185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant because there is an existing structure, most of which will be retained, and the 49.1' proximity to the coastal feature already exists and the applicant has worked the best that they could with the existing conditions; B) that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain because there is no basis for either of those conclusions; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the Comprehensive Plan because these changes will not affect the existing character of the neighborhood; D) that the relief to be granted is the least relief necessary because the closest point to the coastal feature is 49.1', at which point the house is going up but no closer to the water body than it does now. The closest new construction is 50.1' at the sunroom which is not as close as the existing structure and is the most logical place to put a sunroom. The remainder of the new construction will go no closer than that, whether measured to the indentation into or to the exterior of the seawall. Additionally, the standards for a dimensional variance set forth in Section § 185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to

more than a mere inconvenience.

MOTION: Mr. Freel moved to approve the special use portion of the application incorporating all of the previous factual notations including the conditions of the Conservation Commission's report.

Mr. Blasbalg seconded the motion and it carried unanimously (5-0).

REASON FOR DECISION:

It was the judgment of the Board that the standards in § 185-73 have been met: A) that the public convenience and welfare will be substantially served; there will be no negative impact on the public; B) that it will be in harmony with the general purpose of this chapter, and with the Comprehensive Community Plan because what they are doing clearly fits in with the feel of that area and with the existing house; C) that it will not result in or create conditions that will be inimical to the public health, safety, morals and general welfare of the community because there will be no parking or traffic impact due to these changes/additions; D) that it will not substantially or permanently injure the appropriate use of the property in the surrounding area or district because there is no indication of any of this.

The Board further found that the standards in § 185-174 have been met, taking into full consideration the report of the Conservation Commission including their conditions because the application minimizes, to the degree possible, any negative impacts to the wetlands values described in § 185-170, and meets the following development standards: A) as provided in § 185-175, since the proposed construction is no closer to the wetland than existing construction and the Conservation Commission has found no potential for significant environmental impact, new structures and expansions, paved areas and land disturbances may be within 100 feet from the wetland edge; B) The proposed project will not obstruct floodways in any detrimental way, or reduce the net capacity of the site and adjoining properties to retain floodwaters; C) The proposed project will not cause any sedimentation of wetlands, and will include all necessary and appropriate erosion and sediment control measures; D) The proposed project will not reduce the capacity of any wetland to absorb pollutants; E) The proposed project will not directly or indirectly degrade the water quality in any wetland or water body; F) The proposed project will not reduce the capacity of any wetland to recharge groundwater; G) The proposed project will not degrade the value of any wetland as a spawning ground or nursery for fish and shellfish or habitat for wildlife or wildfowl.

Application #3856, Barrington Early Childhood Center, 27 College Lane., Barrington, RI, applicant and owner, for permission to construct an addition and relocate a shed. Assessor's Plat 15, Lot 201, OS-A District, 27 College Lane. Barrington, RI, requiring dimensional relief for front yard setback, and a special use permit for use as a private school.

Present: Anthony DeSisto, Esq., 450 Veterans Memorial Parkway, East Providence, RI
George Nunes, architect, 109 Highland Ave., Needham, MA
Gayle Justynski, Director of BECC
Erica Farrell, President of the BECC Board

The school, designed and built in 1977, is a non-profit early childhood center serving pre-schoolers and pre-kindergarteners. BECC is the highest rated pre-school in Barrington of the 14 that participate

in the Bright Star voluntary rating program. Because of space constraints resulting from having only two classrooms, all classes are currently limited to half day. They would like to maintain some half day programs while also adding the option for 9:00 a.m. - 1:00 p.m. pre-K classes.

The Special Use permit is required because the physical plant is being expanded – the number of students permitted is not changing, and any change in that would require additional relief.

The school serves 90 families per week. There are two classes of 18 students each in a morning session from 9:00 a.m. to 11:30 a.m. and two classes of 18 students each in an afternoon session from 12:00 noon to 3:00 p.m., utilizing two classrooms and serving 72 children per day. They would like to add a 3rd classroom. They would then have one morning session class and one afternoon session class, each with 18 students. In addition they would add two longer classes, with 18 students each, from 9:00 a.m. to 1:00 p.m. The total number of students per day would remain at 72.

While there are currently 36 students at any one time, with the addition there would be 54 students at any one time, although the total number of students served per day would remain at 72. The additional space they are requesting is because they need 35 square feet per child and more children will be in attendance at one time.

The Board noted that with that change in the maximum number of children at any one time, there is a likely increase in the traffic impact at peak times. The greatest impact will be in the morning – there are currently 36 children arriving at about the same time in the morning, and with the expansion and revised schedule, there would be 54 children. The applicant offered to stagger the arrival times, with one session beginning at 8:45 a.m. and the other beginning at 9:00 a.m. The Board asked if that interval could be increased to 20 or 25 minutes, but the applicant indicated that moving the starting times more than fifteen minutes would not be practicable due to parents' needs. The applicant subsequently noted that parents park and walk their children into the school, most using the rear doors by the play area, with a lesser number using the front door. With the addition, the new door on the front side of the addition will also be a primary entrance.

The applicant discussed with the Board the choice of location for the addition. There is no room to place the addition on the east side along College Lane. An addition on the back side would impact egress from the two classrooms and eliminate the natural light that the classrooms currently enjoy. In addition, they want the addition to be as far north as possible to reduce impact on the houses to the south. An addition to the north of the current building is impossible because of the street. An addition on the west side of the structure works well with the circulation and adds additional security to the play area and provides a privacy screen to College Lane.

The existing structure is 19' 4" from the property line and the proposed addition would be 11' 9" from the property line. Placing the addition this way permits an entrance from the side – facing toward the current front entrance – and with the pergola, will create an architecturally appealing façade: if the addition were to be placed at the same distance from the front as the current building, the front would be an essentially unbroken wall. The drawing on the site plan shows the correct dimensions.

An addition to the west but set back from the current façade of the building, so as not to encroach more on the setback and still provide architectural relief, would interfere with circulation within the building

and impinge on the play area to the rear. In particular, a building set farther back would greatly reduce the ability of parents use the parking lot to observe their children in the play area. It would also reduce the open feel of the play area, which the applicant wishes to avoid, and bring the addition closer to the neighbor to the rear.

Twelve current or former parents or BECC Board members spoke in favor of the application, expressing the following views:

1. The playground area in its current location, configuration and with the elements it contains (sandbox, bike path, etc.) is an extremely important element of the school.
2. An expansion of the hours offered by BECC is essential if the school is to serve as a transition to a full-day kindergarten. The addition is key to this expansion of hours.

Bruce Abowitt, 24 Mayfield Dr. - directly behind the BECC – is not opposed to the addition or its distance from his house, but expressed concern about older kids using the school property after hours. The Board said this matter is beyond its jurisdiction. However, the applicant offered to add lighting in the back of the school.

Betheny Huff, 5 College Lane, expressed concern about added traffic due to the increase in the number of students that will be there at the same time. Many parents both enter and leave via the neighborhood instead of going into the school grounds one way and exiting through the neighborhood. She does not think that staggering the drop-off times by fifteen minutes would be enough to make a difference in peak traffic.

Jill Hughes, 20 Mayfield Drive, also expressed traffic and speed concerns as well as concern about keeping children safe during their afternoon bus drop off times - when BECC parents are coming to pick up their children. The Board noted that based on the applicant's testimony, the number of children being picked up at any one time in the afternoon will decrease. Ms. Justynski confirmed that the volume in the afternoon would decrease from 36 students to 18 students.

The Chair noted the report from the Planning Board - part of this application – which deals with the architectural aspect of this proposal under "Findings of Fact" 3b and 3c. The applicant indicated acceptance of the conditions outlined by the TRC in its meeting of August 11, 2016.

MOTION: Mr. Freel made a motion to approve the special use portion of this application with the following conditions:

1. The recommendations of the Technical Review Committee and Planning Board are incorporated and adopted as follows:
 - a) There will be no additional signage
 - b) Drywells must be installed as part of the plan so there is no negative impact for drainage
 - c) The "Findings of Fact" on pages 4 & 5 of the Planning Board minutes of the September 6, 2016 meeting are followed.
2. The applicant must communicate to the student's families that the preferred drop off time and

class start time for 36 students is at 8:45 a.m. and the preferred drop off time and start time for 18 students is at 9:00 a.m.

3. The total number of students attending the school throughout the course of a day does not exceed 72.

Mr. Rizzolo seconded the motion and it carried unanimously (5-0).

REASON FOR DECISION:

It was the judgment of the Board that the standards in § 185-73 have been met: A) that the public convenience and welfare will be substantially served given the stagger of start times and the existing conditions, and there is evidence of an affirmative benefit to the public in that it creates a broader range of services and allows the school to have simultaneous classes; B) that it will be in harmony with the general purpose of this chapter, and with the Comprehensive Community Plan because it is consistent with the currently approved use on the property; C) that it will not result in or create conditions that will be inimical to the public health, safety, morals and general welfare of the community because the only change and impact on traffic will be at the start time in the morning and the proposed 15 minute stagger will alleviate that to some degree; D) that it will not substantially or permanently injure the appropriate use of the property in the surrounding area or district because the existing conditions are already there and the total number of 72 children during the course of a day is already there. The stagger of start times in the morning will help with the additional students being dropped off in the morning.

MOTION: Mr. Freel made a motion to approve the dimensional variance portion of this application based on the following condition:

1. The recommendations of the Technical Review Committee and Planning Board are incorporated and adopted.

Mr. Rizzolo seconded the motion and it carried (4-1) with Mr. Blasbalg opposed.

REASON FOR DECISION:

It was the judgment of the Board that the standards in § 185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant because the existing structure is already there and any addition has to relate to that. This proposal has benefits that some of the other designs did not have; B) that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain because there is no evidence of any prior action and the addition is more to meet the needs of the changing school day and demands of their clientele and not primarily for financial gain; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the Comprehensive Plan because even the neighbors who objected did not object to the location of the addition, and the size of the lot accommodates it. The Planning Board also noted in its "Findings of Fact" that this application is consistent with the Comprehensive Plan; D) that the relief to be granted is the least relief necessary because while the addition will be 11' 9" from the front property line, there are many benefits from putting the addition on the front end rather than the back: 1) there is a positive architectural effect and

a benefit in having the new “front” door face the side -towards the existing front door - rather than facing the street; 2) it minimizes the obstruction of the view of the play area for parents; 3) the way kids get in and out of the play area will not be changed. There were no objections to the distance of the proposed building from the street, and there is more grass space between the property line and the street than is often the case. Additionally, the standards for a dimensional variance set forth in Section § 185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience.

Application #3858, John & Lee Edwards, 46 Nayatt Rd., Barrington, RI, applicants and owners, for permission to build new front stoop & stairs, extension to family room, new mudroom, laundry, and bathroom addition. Assessor’s Plat 5, Lot 12, R-40 District, 46 Nayatt Rd., Barrington, RI, requiring dimensional relief for front yard setback and exceeding lot coverage.

Present: John Edwards, applicant
Scott Weymouth, Arris Design

Mr. Weymouth explained that front yard relief is needed for new front steps. The house is very close to Nayatt Road and also too close to Cedar, and much of it is within the required setbacks. The existing granite steps have no landing at the top and the risers do not meet code. They desire to build a new landing and front steps to code. The new steps would be no closer to Nayatt than the existing steps, but will be closer to Cedar - 40' from Cedar and in an R-40 zone; 50' is required.

They are also requesting an approximately 1% increase in lot coverage: the allowable lot coverage is 15% and they want to increase that to 15.72%. The lot is undersized at approx. 30,000 square feet in an R-40 zone, and the property also has a large 2-story detached garage.

They would extend the facade facing Cedar and add space on the north side of the house. The added space facing Cedar will permit them to extend the family room to have both a sitting area and dining area, with the kitchen also opening to this space. The addition on the north side will include a mudroom, a laundry area, and a bathroom that would be accessible to the pool. An existing porch and stairs will be removed. These changes are needed to provide better flow and the open feel found in current homes.

MOTION: Mr. Rizzolo moved to approve the application. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

REASON FOR DECISION:

It was the judgment of the Board that the standards in § 185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant, because the house is pre-existing and sits at an odd relationship to the streets. The front steps are outside of the setbacks lines - a pre-existing condition - and they are non-code compliant and dangerous, plus there is an oversized garage on an undersized property contributing to the lot coverage issue. The location of the expansions make sense because of the existing arrangement of structures and pool on the lot.; B) that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain

because everything being done is the result of things that already exist; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the Comprehensive Plan because it is to improve the function of an older house and bring it into today's modern way of living and this proposal is within both the characteristics of the neighborhood and the house, and works very well with the existing massing; D) that the relief to be granted is the least relief necessary because the proposed front entry steps are of a size required by code and none of the additional bump-outs are overly large and some are as small as could be made. Additionally, the standards for a dimensional variance set forth in Section § 185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience.

Other Business:

- Discussion of potential revisions to sign ordinance

Mr. Rizzolo said that he read through the sign ordinance and didn't see anything that he felt strongly needs changing. He believes that our Town ordinance is fairly well handled. He noted that it was interesting how Princess Place controls the format of all of their tenant's display signs - they use the same font, size, color and location. It has a nice feel. He believes we should be looking at that type of signage approach for future proposals. Mr. Rizzolo felt that, based on the ordinance, the Zoning Board also has the ability to stipulate sign design and it is not just the responsibility of the Technical Review Committee.

Mr. Freel said that he is very influenced by TRC's review because of the amount of time and level of detail they put into their review process. Mr. Blasbalg said that he thinks our town's ban on indoor illuminated signs should be reviewed again because of the newer options with advance technology available for softer, less intrusive lighting.

Mr. Speaker said that there are a lot of sign issues that do not come before the Zoning Board because of businesses not adhering to the ordinance, such as A-frame signs, temporary signs and window signs, etc. When these are brought to his attention, Mr. Speaker must inspect the sign situation and enforce the ordinance.

A suggestion was made to put together an ad hoc group of members from different Boards. Mr. Teitz said that there is already a Zoning Update Committee, which is a Planning Board subcommittee, and it would be helpful if the Board appointed someone from Zoning to join that Committee.

ADJOURN:

There being no other business, Mr. Freel moved to adjourn at 10:50 p.m. and the meeting was adjourned.

Respectfully submitted,

Mary Ann Rosenlof, secretary
Thomas Kraig, Chairman

cc: Andrew Teitz, Solicitor, Amy Goins, Assistant Solicitor